

REMARKS

Claims 1-4, 6, 7, 10-21, 23-26 and 33-36 are pending in this application. Claims 1, 10-12, 16, 18-20, 25, 26 and 33 are independent claims. By this amendment, claims 1, 10-12, 16, 18-21, 23-26 and 33-36 are amended. In addition, the Title of the Invention is amended. Reconsideration in view of the above amendments and following remarks is respectfully solicited.

The Claim Objections Are Obviated

The Office Action objects to claims 16-19, 25 and 26 as being allegedly substantially duplicative of other claims. This objection is respectfully traversed. Applicants respectfully submit that the amendment to the claims obviates the objection of the claims. Accordingly, withdrawal of the objection to claims 16-19, 25 and 26 is respectfully solicited.

The Claims Satisfy The Requirements Of 35 U.S.C. §112, 2nd Paragraph

The Office Action reject claims 33-36 under 35 U.S.C. §112, 2nd paragraph. This rejection is respectfully traversed. Applicants respectfully submit that the amendment to claim 33 obviates the rejection of claims 33-36 under 35 U.S.C. §112, 2nd paragraph. In particular, the amended claim 33 clarifies what is meant by "associated information". Accordingly, withdrawal of the rejection of claims 33-36 under 35 U.S.C. §112, 2nd paragraph is respectfully solicited.

The Claims Satisfy The Requirements Of 35 U.S.C. §101

The Office Action rejects claims 20, 21, 23-26 and 33-36 under 35 U.S.C. §101 because the claimed invention is allegedly directed to non-statutory subject matter. This rejection is respectfully traversed. Applicants respectfully submit that the amendment to claims 20, 21, 23-26 and 33-36 obviates the rejection of the claims under 35 U.S.C. §101. Accordingly, withdrawal of the rejection of claims 20, 21, 23-26 and 33-36 under 35 U.S.C. §101 is respectfully solicited.

The Claims Define Patentable Subject Matter

The Office Action makes the following rejections:

- (1) claims 1-3, 12, 20 and 33-36 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,765,568 to Swift et al. (hereafter Swift);
- (2) claims 6, 7, 14-16, 23 and 24 are rejected under 35 U.S.C. §103(a) as being unpatentable over Swift in view of U.S. Patent No. 6,023,277 to Osaka et al. (hereafter Osaka);
- (3) claims 4, 13, 17 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Swift in view of U. S. Patent No. 5,581,625 to Connell (hereafter Connell), in further view of U.S. Patent No. 6,496,598 to Harman (hereafter Harman), and further in view of Osaka;

(4) claims 10, 18 and 25 are rejected under 35 U.S.C. §103(a) as being unpatentable over Swift in view of U.S. Patent No. 6,233,004 to Tanaka et al. (hereafter Tanaka); and

(5) claims 11, 19 and 26 are rejected under 35 U.S.C. §103(a) as being unpatentable over Swift in view of U.S. Patent No. 6,005,607 to Uomori et al. (hereafter Uomori).

These rejections are respectfully traversed.

Rejection under §102(b)

According to MPEP §2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ...claims." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913 (Fed. Cir. 1989). The elements must be arranged as required by the claims, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Applicants respectfully submit that Swift fails to teach or suggest each and every feature as set forth in the claimed invention.

For example, the Examiner alleges that Swift discloses receiving a parameter for displaying three-dimensional image data in column 3, lines 24-26 and 47-50. Applicants

respectfully disagree with this allegation. A close review of Swift reveals simply that with regards to display methods, a single media file format (i.e. a stereoscopic 3D media file 12) is converted to various display formats on the user side. For example, Swift takes a tag within the stereoscopic 3D media file and performs scaling while preserving stereo. (see Swift, col. 3, lines 23-54).

However, Swift fails to disclose that the tag information is a parameter including at least one of indicating a condition for picking up an image, indicating a method of generating three-dimensional image data from data of the picked up image, or information data for controlling display of the three-dimensional image data. There simply is no parameter containing conditions for picking up a 3D image disclosed in Swift, particularly as claimed.

The Examiner further alleges that Swift discloses file generation means for generating a multimedia information file based on both the 3D image display control information and the 3D image data by creating a file structure to store and preserve various types of stereo media. (see Office Action, bottom of page 4 through page 5). Applicants respectfully disagree with this allegation. Even if Swift discloses a file format that can store multiple or single stereo/non-stereo media elements, Swift fails to disclose that such a file format has header control information added thereto, as set forth in the present invention. Instead, Swift merely discloses storing various types of stereo media in various formats. (see Swift, col. 8, lines 10-23). However, Swift fails to disclose adding header control

information to the 3D image display control information and the 3D image data, as set forth in the present invention.

As to claim 33, Swift additionally fails to disclose that the recording area includes an image recording area for recording the three-dimensional image data or the two-dimensional image data, an audio recording area for recording audio data, and a sub code area for recording associated information including a time code. In other words, Swift fails to disclose time code data being placed in a recording area.

Applicants respectfully submit that the Office Action has failed to establish the required prima facie case of anticipation because the cited reference, Swift, fails to teach or suggest each and every feature as set forth in the claimed invention. Applicants respectfully submit that independent claims 1, 12, 20 and 33 are allowable over Swift for at least the reasons noted above. As for each of the dependent claims not particularly discussed above, these claims are also allowable for at least the reasons set forth above regarding their corresponding independent claims, and/or for the further features claimed therein. Accordingly, withdrawal of the rejection of claims 1-3, 12, 20 and 33-36 under 35 U.S.C. §102(b) is respectfully solicited.

Rejection under §103(a)

Applicants also respectfully submit that Osaka, Connell, Harmon and Tanaka each fail to make up for the deficiencies noted above found in Swift. The rejections under §103(a) are respectfully traversed.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In *re* Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness at least in part because the Examiner has failed to show how each and every feature is taught by the cited combination of cited art. In particular, and with regard to claims 4, 6-7, and 16-17, the Examiner has failed to show at least means for, or a method of, receiving a parameter for displaying three-dimensional image data, said parameter including at least one of information data indicating a condition for picking up an image, information data indicating a method of generating three-dimensional image data from data of the picked up image, and information data for controlling display of the three-dimensional image data. In particular, and with regard to claims 10-11, the Examiner has failed to show at least an apparatus comprising a file generation unit for generating a multimedia information file wherein header control information is added thereto. In particular, and with regard to claims 13-15, the Examiner has failed to show at least an apparatus comprising means for analyzing a structure of a multimedia information file, so as to extract header control information, and

has failed to show means for reproducing three-dimensional image data based on header control information. In particular and with regard to claims 21 and 23-24, the Examiner has failed to show at least an image data recording medium having stored thereon, information representing a multimedia information file, the information when executed on an image data reproduction apparatus depicting information wherein header control information is added thereto. In particular, and with regards to claims 18-19, the Examiner has failed to show at least a method comprising reproducing a multimedia information file including both of image pick-up condition information indicating an image pick-up condition for a three-dimensional image and three-dimensional image data, or at least two-dimensional image data. In particular, and with regards to claims 25-26, the Examiner has failed to show at least an image data recording medium having stored thereon, information representing a multimedia information file, the information when executed on an image data reproduction apparatus depicting information indicating an image pick-up condition for a three-dimensional image and three-dimensional image data, or at least two-dimensional image data.

Applicants respectfully submit that the Examiner has further failed to show any suggestion or motivation from either the references themselves or in the knowledge generally available to one of ordinary skill in the art why it would be proper to combine the cited references. Instead, the Examiner is merely relying on improper hindsight. Accordingly, withdrawal of the rejection of claims 4, 6- 7, 10-11, 13-19, 21 and 23-26 under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

In view of the foregoing, Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited. Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact James M. Alpert (Reg. No. 59,926) at (703) 205-8000.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment from or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17; particularly, the extension of time fees.

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Respectfully submitted,

By 

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